REMARKS/ARGUMENTS

The present Amendment is being submitted with a Request For Continued Examination and serves as a response to the final Office Action dated January 25, 2007.

The Office Action has been carefully considered. Claims 1 and 4-21 are pending in the present application with claim 1 being in independent form. By the present Amendment, claim 1 has been amended to further clarify the features of the present application.

Claims 1, 5, 6, 8 and 9 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,839,087 to Sato in view of U.S. Patent No. 5,194,960 to Ota. Reconsideration of this rejection is respectfully requested.

The reasons for this rejection are substantially similar to those set forth in the previous Office Action. In short, the Examiner contends that Sato discloses substantially all of the features of claim 1 of the present application. The Examiner concedes that Sato does not disclose "synthesizing means for synthesizing the information concerning a dynamic range with said first and second conditions for exposure acquired by said information acquiring means and a histogram arithmetic means for producing a histogram of the information synthesized by said information synthesizing means." However, the Examiner indicates that Ota discloses this feature. The Examiner further argues that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the information synthesizing means and histogram generating means of Ota with the analyzing means of Sato. Applicant respectfully disagrees.

As was noted in Applicant's previous response dated November 24, 2007, Sato relates to an exposure controller for a digital camera using an image pickup device. A photometering sensor 52 is used to measure the brightness of an object to be photographed in order to determine an aperture size and an exposure time for the CCD. In Sato, during pre-exposure, the photometering device measures the brightness of the object under two different exposure timings. This information is used to provide a compensation factor and to generate a third exposure time under which the main exposure for taking the photograph is performed.

Ota relates to an optical image signal control device where a first preliminary exposure is performed in the center of an automatic exposure luminance range. Based on this information a

determination is made as to the total number of pixels recognized as white and the total number of pixels recognized as black. A second preliminary exposure is then performed based on whether there are more white or black pixels. Ota discloses that a value calculating means 22 provides a histogram to indicate whether there are more white or black pixels after the first preliminary exposure and second preliminary exposure.

As was described in Applicant's previous response, Sato and Ota, fail to show or suggest an image-pickup device including an analyzing means with "an information synthesizing means for synthesizing the information concerning a dynamic range with said first and second conditions for exposure acquired by said information acquiring means," and "a histogram arithmetic means for producing a histogram of the information synthesized by said information synthesizing means," as was required by previous claim 1 of the present application.

In response to Applicant's previous arguments, the Examiner referenced Column 14, lines 26-44 of Ota as allegedly illustrating these features. The Examiner argues that this portion of Ota, along with Fig. 5, show a first exposure under condition b and a second exposure under condition a or c with a luminance histogram then prepared based on the first and second exposures. The Examiner concludes that Ota thus teaches that synthesized information, that is the information from exposure conditions b and c or a is used to produce a luminance histogram. The Examiner further argues that it would have been obvious to one of ordinary skill in the art to combine Sato in view of Ota to include this feature. Applicant must respectfully disagree.

Fig. 5 of Ota is described at Column 14, lines 26-55 thereof. Ota describes a first exposure performed under exposure conditions "b". Thereafter, the image pick-up signal is read out and the number of pixels in each luminance region is counted at step **41**. The portion of the image recognized as black and the portion of the image recognized as white is determined at step **42**. If the portion recognized as black is large, a second exposure is performed under exposure condition "a" in step **43**. If the portion of the image recognized as white is large, the second exposure is performed under condition "c" at step **44**. The image pick-up from the second exposure is read out and the number of pixels in each luminance region is counted and a luminance histogram is made based on that information. That is, the histogram is based on information from the second exposure and <u>not</u> from a combination of the first and second

exposures. Thus, Ota fails to show or suggest the information synthesizing means and the a histogram arithmetic means of previous claim 1 of the present application.

In addition, even if Sato and Ota did disclose these features, there is no showing or suggestion in either Sato or Ota of an information synthesizing means "wherein the information synthesizing means synthesizes at least first and second luminance information obtained during the first condition for exposure and the second condition for exposure, respectively, wherein the first and second luminance information are matched with a corresponding exposure level associated with the first condition for exposure and the second condition for exposure, respectively, to provide synthetic luminance information based on the first and second luminance information," as is required by amended claim 1 of the present application. As is described above, there is no disclosure in Ota, or Sato, of synthesizing first and second luminance information at all, much less matching first and second luminance information with first and second exposure levels associated with the first and second conditions of exposure.

Indeed, in accordance with the teachings of Ota, a second exposure may not be performed at all. When the portion of the image in the first exposure that is black is similar in size to the portion that is white, the second exposure is not performed. That is, in Ota, the first exposure under exposure condition "b" is intended merely to determine if a second exposure is necessary. If so, the luminance histogram is made based on the second exposure only. If not, a luminance histogram is made based on the first exposure only. Thus, there is no disclosure of synthesizing information in Ota, at all, much less synthesizing first and second luminance information and matching luminance information to exposure levels associated with the first an dsecond conditions for exposure.

Further, even if Ota did disclose the features described above, the Examiner has failed to identify any teaching or suggestion to modify the device of Sato to include the features of Ota. The Examiner argues that one would have been motivated to make this combination because synthesizing the information of two pre-exposure values and creating a histogram based on these values allows a proper main exposure to be determined based on peak luminance levels in the histogram. This reasoning, however, is not described in either of the references cited by the Examiner. Sato makes no mention whatsoever of a synthesizing device at all much less

providing a histogram based on synthesized information. Thus, there is no suggestion in Sato to provide for such synthesis. Further, Ota, as is noted above, discloses using information from a first exposure setting to determine whether a second exposure is necessary. Thus, Ota would tend to teach away from synthesizing information from two exposures, since it specifically teaches that a second exposure may not be necessary. In addition, there is no mention in either Ota or Sato of synthesizing first and second luminance information or of matching first and second luminance information to first and second exposure levels. Thus, even if Ota did disclose the features of claim 1 that are missing from Sato, which it does not, it would not have been obvious to one of ordinary skill in the art to modify the device of Sato to include the features of Ota.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 5, 6, 8 and 9, are patentable over the cited art for at least the reasons described above.

Claim 4 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 6,850,642 to Wang. Reconsideration of this rejection is respectfully requested.

Claim 4 depends from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Wang, since Sato, Ota and Wang, either alone or in combination, fail to show or suggest the combination of claim 1.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claim 4, are patentable over the cited art for at least the reasons discussed above.

Claim 7 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 4,647,975, to Alston et al. Reconsideration of this rejection is respectfully requested.

Claim 7 depends from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Alston et al., since Sato, Ota and Alston et al., either alone or in combination, fail to show or suggest the combination of claim 1.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claim 7, are patentable over the cited art for at least the reasons discussed above.

Claims 10 -19 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato in view of Ota and further in view of U.S. Patent No. 5,929,908 to Takahashi et al. Reconsideration of this rejection is respectfully requested.

Claims 10-19 depend from claim 1, either directly or indirectly. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota and Takahashi et al., since Sato, Ota and Takahashi et al., either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 10-19, are patentable over the cited art for at least the reasons discussed above.

Claims 20-21 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sato, Ota, Takahashi et al. and Alston et al. Reconsideration of this rejection is respectfully requested.

Claims 20-21 depend indirectly from claim 1. As noted above, claim 1 is believed to be patentable over Sato and Ota for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over Sato, Ota, Takahashi et al. and Alston et al., since Sato, Ota, Takahashi et al. and Alston et al., either alone or in combination, fail to show or suggest the combination of claim 1.

Accordingly it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 20-21, are patentable over the cited art for at least the reasons discussed above.

In light of the remarks made herein, it is respectfully submitted that claims 1 and 4-21 are patentable over the cited art and are in condition for allowance.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims and pass this case to issue.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY THROUGH THE UNITED STATES PATENT AND TRADEMARK OFFICE EFS FILING SYSTEM ON MAY 25, 2007

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